Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALBERT G. LINTELL, III, JOSEPH A. VESCIO,
and
JOSEPH L. HELMICK

Appeal No. 2004-1754
Application No. 09/496,783

ON BRIEF

Before HAIRSTON, OWENS, and LEVY, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 17-19 and 21-24, which are all of the claims pending in the application.

THE INVENTION

The appellants claim a healthcare information system and method wherein denied referral authorization requests are

forwarded to a third party human researcher for further research and, in response to the research, a database associating insurance healthplans with doctors is updated. Claim 17, which claims the system, is illustrative:

> 17. A healthcare information system, comprising:
>
> a plurality of provider office systems, each provider office system comprising circuitry for generating referral requests with reference to a database associating insurance healthplans with doctors;
>
> referral authorization circuitry for:
>
> receiving said referral requests,
>
> generating electronic authorization requests to an associated insurance company responsive to ones of said referral requests,
>
> receiving an electronic authorizations/denial for each electronic authorization request;
>
> forwarding denied authorization requests to a third party human researcher for further research; and
>
> updating said database responsive to said research.

THE REFERENCES

Spurgeon	5,890,129	Mar. 30, 1999
Peterson et al. (Peterson)	6,343,271	Jan. 29, 2002 (filed Jul. 17, 1998)

THE REJECTION

Claims 17-19 and 21-24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Spurgeon in view of Peterson.

OPINION

We reverse the aforementioned rejection.

Both of the appellants' independent claims require that an electronic denial of an electronic referral authorization request is forwarded to a third party human researcher for further research and that, in response to the research, a database associating insurance healthplans with doctors is updated.

Spurgeon discloses "a computerized system for controlling the exchange of subscriber demographics, benefit plan, eligibility, prior authorization, claims, quality assurance and governmental regulatory information between an insurance company and multiple health care provider groups" (col. 1, lines 9-13). Regarding referrals, Spurgeon discloses (col. 3, line 66 - col. 4, line 18):

> If the primary care provider determines that treatment by a specialist or exceptional treatment by the provider is indicated for the subscriber, a prior authorization request is submitted, in order to request a utilization review of the proposed treatment. The insurer previously would receive the requests by telephone, mail or fax. Using the provider interface portion of the information-exchange system, the provider enters information necessary for a prior authorization on the provider interface computer. The

> information-exchange system transmits, via push technology, the information up to the web server, which transmits the information to the insurer and/or to a third party review agency. In the course of this transmission, the information-exchange system translates and reformats the information as required for the receiving utilization review software, which may be running on the insurer's or third party review agency's computer. The utilization review software processes the prior authorization request to aid the insurer or third party review agency in determining the subscriber eligibility and the medical appropriateness of the prior authorization request.

Peterson discloses "automated health claims processing systems, wherein a health care provider may access information relating to patients, create and submit claims electronically, learn whether the claims are to be automatically or manually adjudicated, and receive automated electronic payment from the claims processing system" (col. 1, lines 9-14). Claims are manually adjudicated when they are consistent with fraud or unintentional error, or for some other reason require a more thorough review by the insurer than automatically adjudicated claims (col. 4, lines 38-42).

The examiner argues that Peterson discloses, at column 13, lines 23-64, forwarding denied authorization requests to a third party human researcher for further research (answer, pages 3-4). That portion of Peterson discloses that claims to be manually adjudicated are sent to a claim shop, but does not disclose

forwarding either denied authorization requests or claims to a third party human researcher for further research.

The examiner argues that because the appellants' claim 17 does not require that a claim is actually adjudicated before being forwarded to a third party human researcher, Peterson's denial of a submitted claim as being in proper form for adjudication is a form of denied authorization (answer, page 7). The appellants' claims do not pertain to adjudication of claims but, rather, are directed toward granting or denying referral authorization requests. Peterson's determination as to whether a claim is to be automatically or manually adjudicated, which takes place before denial, is not comparable to the appellants' forwarding of a denied authorization request, which takes place after denial.

Moreover, the examiner has not established that the applied references would have fairly suggested, to one of ordinary skill in the art, updating a database, subsequent to a denial, in response to research by a third party human researcher.

For the above reasons we conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the appellants' claimed invention.

DECISION

The rejection of claims 17-19 and 21-24 under 35 U.S.C. § 103 over Spurgeon in view of Peterson is reversed.

REVERSED

KENNETH W. HAIRSTON)
Administrative Patent Judge)
)
)
TERRY J. OWENS)
Administrative Patent Judge) BOARD OF PATENT
) APPEALS AND
STUART S. LEVY) INTERFERENCES
Administrative Patent Judge)

TJO:hh

Appeal No. 2004-1754
Application No. 09/496,783

ANDERSON, LEVINE & LINTEL L.L.P.
14785 PRESTON ROAD
STE. 650
DALLAS, TX 75254